

David K. Callahan, P.C. (IL 620227)
KIRKLAND & ELLIS LLP
200 East Randolph
Chicago, Illinois 60601
Telephone: (312) 861-2000
Facsimile: (312) 861-2200

Attorney for Plaintiffs and Counter-defendants
BAXTER HEALTHCARE CORPORATION,
BAXTER INTERNATIONAL INC. and
BAXTER HEALTHCARE SA

Maureen K. Toohey (SBN 196401)
TOOHEY LAW GROUP
225 Franklin Street, 16th Floor
Boston, Massachusetts 02110
Telephone: (617) 748-5511
Facsimile: (617) 748-5555

Attorney for Plaintiff and Counter-defendant
DEKA PRODUCTS LIMITED PARTNERSHIP

Juanita R. Brooks (SBN 75934)
FISH & RICHARDSON P.C.
12390 El Camino Real
San Diego, CA 92130
Telephone: (858) 678-5070
Facsimile: (858) 678-5099

Attorney for Defendants and Counter-claimants
FRESENIUS MEDICAL CARE HOLDINGS,
INC. and FRESENIUS USA, INC.

**UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION**

BAXTER HEALTHCARE
CORPORATION,
BAXTER INTERNATIONAL INC.,
BAXTER HEALTHCARE SA, and DEKA
PRODUCTS LIMITED PARTNERSHIP,

Plaintiffs and Counter-defendants,

vs.

FRESENIUS MEDICAL CARE
HOLDINGS, INC. d/b/a FRESENIUS
MEDICAL CARE NORTH AMERICA and
FRESENIUS USA, INC.,

Defendants and Counter-claimants.

Case No. C 07-01359 PJH (JL)

“DISCOVERY MATTER”

**JOINT STIPULATION REQUESTING
BRIEF EXTENSION OF DEADLINE FOR
DEFENDANTS TO COMPLETE
PRODUCTION OF EMAILS**

Date: n/a
Time: n/a
Place: Courtroom F, 15th Floor
Judge: Hon. James Larson

1 Plaintiffs Baxter Healthcare Corp., ,Baxter International Inc., and Baxter Healthcare S.A.,
2 (collectively “Baxter”) and DEKA Products Limited Partnership (“DEKA”) and Defendants
3 Fresenius Medical Care Holdings, Inc. d/b/a Fresenius Medical Care North America and Fresenius
4 USA, Inc. (collectively “Fresenius”) hereby respectfully submit their joint stipulation requesting a
5 brief extension of the deadline by which Fresenius must complete production of its archived
6 emails due to the enormous volume of emails retrieved from Fresenius’ archives.

7 The parties agreed to begin producing emails in late November pursuant to an agreement
8 regarding electronically stored information. On November 30, 2007, the Court ordered Fresenius
9 to complete production of archived emails from ten key employees by January 4, 2008, and to do
10 so on a rolling basis. Fresenius retrieved emails dating back to the agreed-upon search date of
11 January 1, 2001, and these emails totaled more than 100 gigabytes of data. Even after Fresenius
12 applied the key search terms supplied by Plaintiffs, more than 43 gigabytes of data remained,
13 comprising more than 225,000 discrete documents (emails and associated attachments), many of
14 which are quite lengthy.

15 In order to comply with the Court’s Order, Fresenius enlisted more than 20 attorneys and
16 numerous staff members from seven of Fish & Richardson’s eleven offices, many of whom do not
17 ordinarily work on this matter but are nevertheless participating in the review because of its size
18 and urgency. These attorneys and staff members have been and will continue to be reviewing
19 documents every single day from now until January 4—including Christmas Eve, Christmas Day,
20 New Year’s Eve, and New Year’s Day—in order to complete the review in a timely manner. In
21 short, Fresenius is making every possible effort to comply with this Court’s Order. Fresenius has
22 already begun producing responsive, non-privileged emails and attachments on a rolling basis.

23 However, the sheer size and complexity of the review have made it impossible for
24 Fresenius to complete production of all of its responsive emails by January 4. Accordingly,
25 Plaintiffs have agreed to extend the deadline for Fresenius’ production by 14 days, to January 18.
26 In turn, Fresenius has committed to Plaintiffs to do everything in its power to review half of its
27 archived emails and produce everything arising from that review by January 4. Fresenius will
28 continue to produce documents on a rolling basis, including within the next several days, on

1 January 4, and, hopefully, at some point in-between, depending on the availability of Fresenius'
2 document production vendor.

3 Accordingly, the parties respectfully request that the Court extend the deadline for
4 Fresenius' production of its archived emails until January 18, 2008.

Respectfully submitted,

December 28, 2007

By: /s David K. Callahan s/

KIRKLAND & ELLIS LLP
David K. Callahan, P.C. (IL 620227)
Garret Leach (*pro hac vice*)
Mary Zaug (*pro hac vice*)
200 East Randolph
Chicago, Illinois, 60601
Telephone: (312) 861-2000
Facsimile: (312) 861-2200

Robert G. Krupka (SBN 196625)
777 South Figueroa Street
Los Angeles, California 90017
Telephone: (213) 680-8400
Facsimile: (213) 680-8500

Kenneth Bridges (SBN 243541)
555 California Street
San Francisco, California, 94104
Telephone: (415) 439-1400
Facsimile: (415) 439-1500

*Attorneys For Plaintiffs and Counter-
defendants*
BAXTER HEALTHCARE CORPORATION,
BAXTER INTERNATIONAL INC, and
BAXTER HEALTHCARE SA

December 28, 2007

By: /s Maureen K. Toohey s/

Maureen K. Toohey (SBN 196401)
TOOHEY LAW GROUP
225 Franklin Street, 16th Floor
Boston, Massachusetts 02110
Telephone: (617) 748-5511

Howard A. Slavitt (SBN 172840)
Rachel G. Cohen (SBN 218929)
COBLENTZ, PATCH, DUFFY & BASS LLP
One Ferry Building, Suite 200
San Francisco, California 94111-4213
Telephone: (415) 391-4800
Facsimile: (415) 989-1663

Attorneys for Plaintiff and Counter-defendant
DEKA PRODUCTS LIMITED PARTNERSHIP

December 28, 2007

By: /s Juanita R. Brooks s/

Juanita R. Brooks (SBN 75934)
Todd G. Miller (SBN 163200)
Michael M. Rosen (SBN 230964)
FISH & RICHARDSON P.C.
12390 El Camino Real
San Diego, CA 92130
Telephone: (858) 678-5070
Facsimile: (858) 678-5099

Mathias W. Samuel (*pro hac vice*)
Michael E. Florey (*pro hac vice*)
FISH & RICHARDSON P.C.
60 South Sixth Street, Suite 3300
Minneapolis, MN 55402
Telephone: (612) 335-5070
Facsimile: (612) 288-9696

Limin Zheng (SBN 226875)
FISH & RICHARDSON P.C.
500 Arguello Street, Suite 400
Redwood City, CA 94053
Telephone: (650) 839-5070
Facsimile: (650) 839-5071

*Attorneys for Defendants and Counter-
claimants FRESINIUS MEDICAL CARE
HOLDINGS, INC. and FRESINIUS USA, INC.*

1 PURSUANT TO STIPULATION, IT IS SO ORDERED, for the reasons set forth in the
2 JOINT STIPULATION REQUESTING BRIEF EXTENSION OF DEADLINE FOR
3 DEFENDANTS TO COMPLETE PRODUCTION OF EMAILS that Defendants now have until
4 January 18, 2008, to complete the rolling production of email previously ordered complete by
5 January 4, 2008 in this Court's November 30, 2007 Order Granting in Part Motion to Compel
6 Production of E-Mail (Dkt#122).

7 DATED: ~~December~~ _____, 2007

8 January 8, 2008

